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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,490	06/21/2002	Robert A. Dear	1550/40183	7438

7590

02/10/2004

Trexler Bushnell
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EXAMINER

DURAND, PAUL R

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 02/10/2004

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/089,490

Applicant(s)

DEAR ET AL.

Examiner

Paul Durand

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 12-14 and 16-20 is/are rejected.
- 7) ☐ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

1. The drawings were received on 12/8/03. These drawings are accepted.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 12,13 and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elliot et al (US 3,254,522) in view of Di Troia (US 5,553,478).

In regard to claims 12 and 16, Elliot discloses the invention substantially as claimed including a hand held blindstem riveting tool, comprised of hydraulically actuated riveting head 78, driven by air actuated piston 28, trigger assembly 14 and hydraulic cylinder 16 that acts as a reservoir (see Figs. 1,2, C2,L8-53 and C5,L15-39). What Elliot does not disclose is the use of an electrically powered hydraulically actuated pump to operate the tool. However, Di Troia teaches that it is old and well known in the art to provide a hydraulically reciprocating tool with a trigger 36, battery 28, electric motor 26 and hydraulic reservoir 30, providing hydraulic fluid for reciprocating member 26 for the purpose of providing portable hydraulic power for a hand tool (see abstract, Fig. 2 and C2, L27-54). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the hydraulic

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operated hand tool of Elliot with the electrical power and hydraulic actuation means as provided by Di Troia for the purpose of providing portable hydraulic power for a hand tool.

In regard to claim 13, while Di Troia does not disclose the specific use of a valve connecting the reservoir, the examiner takes Official Notice that it is old and well known in the art to provide a valve that can close and isolate the reservoir from the cylinder, and also open to allow hydraulic fluid to return to the reservoir when the power to the tool is shut off. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Elliot and Di Troia with an operable inlet valve for the purpose of reducing pressure in the hydraulic circuit.

In regard to claims 17 and 18, Elliot discloses the invention substantially as claimed including a riveting head that is returned to an original position by the use of spring 104, when the power (pneumatic power means is switched off (see Figs.1 and 2).

In regard to claim 19, Elliot discloses the invention substantially as claimed including electric motor 26 that is a rare earth type magnetic motor, and could also use other types of motors (see Fig. 2 and C2, L41-45). The examiner takes Official Notice that it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Elliot with an electric motor that rotates in one direction for the purpose of allowing the tool to operate in a forward manner by a motor, and allowing the recoil of the tool in a mechanical manner (i.e. spring).

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In regard to claim 20, Elliot discloses the invention substantially as claimed including a hydraulic pump 30 that is a reciprocating piston type pump (see Fig. 2 and C2, L32-37).

Claim 14 is under 35 U.S.C. 103(a) as being unpatentable over Elliot et al in view of Di Troia and in further view of Sauer et al (US 5,993,402).

Elliot discloses the invention substantially as claimed except for the use of a pressure release valve. However, Sauer teaches that it is old and well known in the art of piston driving to provide a pressure relief valve 13, that is integral with an inlet 2 and inlet valve 8 for the purpose of allowing fluid to flow back into the inlet thereby preventing over pressurizing cylinder 5 (See Fig.1, abstract and C4, L24-42). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Elliot with a pressure relief valve as taught by Sauer for the purpose of preventing an over pressure condition.

Allowable Subject Matter

4. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments, filed 12/8/03, with respect to the rejection(s) of claim(s) 12-20 have been fully considered and are persuasive. Therefore, the rejection has

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been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly found prior art.


Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 703-305-4962. The examiner can normally be reached on 0730-1800, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Durand
February 2, 2004



Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700